

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:20-CR-487-M-2

No. 5:23-CV-148-M

MARTIN VILLILABOS MALAGA,       )  
  )  
      Petitioner,                               )  
  )  
                              v.                               )  
  )  
UNITED STATES OF AMERICA,       )  
  )  
      Respondent.                               )

**ORDER**

This matter is before the court on referral to the undersigned to hold an evidentiary hearing on Petitioner's claim, pursuant to 28 U.S.C. § 2255, that counsel failed to file a notice of appeal as directed and to issue a memorandum and recommendation.<sup>1</sup> [DE-133]. An evidentiary hearing will be held on **Thursday, November 14, 2024 at 10:30 a.m.** in Courtroom 3, Wilmington, North Carolina.

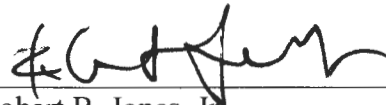
Furthermore, pursuant to Rule 8(c) of the Rules Governing Section 2255 Proceedings, 28 U.S.C. § 2255(g), and 18 U.S.C. § 3006A(a)(2)(B), petitioner has previously demonstrated that he is financially unable to obtain adequate representation, [DE-17, -18], and the Federal Public Defender is DIRECTED to provide representation for purposes of the evidentiary hearing and to forward a copy of this order to appointed counsel, who shall enter an appearance no later than seven days from the date of this order.

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<sup>1</sup> The district court's order further directs the undersigned to "assess Malaga's credibility at the hearing and to determine whether Malaga has committed perjury concerning his discussions with his attorney regarding an appeal." [DE-133] at 6.

The United States Attorney is directed to make the necessary arrangements to ensure Petitioner's appearance at the hearing. The United States Marshal shall serve any subpoena presented to him in this case by the office of the Federal Public Defender, and shall pay the appropriate fees and expenses to witnesses so subpoenaed, in accordance with Rule 17(b) of the Federal Rules of Criminal Procedure.

SO ORDERED, this the 22nd day of October, 2024.

A handwritten signature in black ink, appearing to read "Robert B. Jones, Jr.", written over a horizontal line.

Robert B. Jones, Jr.  
United States Magistrate Judge